

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BUD PETTIGREW,	)	
	)	
Plaintiff,	)	4:11CV3166
	)	
v.	)	
	)	
CHERRY COUNTY SCHOOL	)	MEMORANDUM AND ORDER
DISTRICT NO. 16-0006,	)	
	)	
Defendant.	)	

This matter is before the court on the defendant's motions to change the place of trial (filing nos. [16](#) & [23](#)) from Lincoln, Nebraska to North Platte, Nebraska. The defendant timely filed its motion to transfer along with its answer—the defendant's first pleading in this case. For the reasons set forth below, the defendant's motions to transfer will be granted.

When determining the place of trial “the judge shall consider the convenience of litigants, witnesses and counsel.” [NECivR. 40.1\(B\)\(1\)](#). The convenience of the litigants and witnesses is generally afforded greater weight than the convenience of counsel. See [Standard Office Sys. v. Ricoh, 742 F. Supp. 534, 537 \(W.D. Ark. 1990\)](#) (noting convenience of counsel seldom has controlling weight in determining whether a transfer of an action to a district where it might have been brought is proper under 28 U.S.C. § 1404(a)). Further, a transfer should not be granted if the effect is to merely shift the inconvenience from one party to the other. See [Nelson v. Bekins Van Lines Co., 747 F.Supp. 532, 535 \(D.Minn. 1990\)](#).

The plaintiff has filed an employment discrimination claim against the defendant, a school located in Valentine, Cherry County, Nebraska. Based on the evidence of record, the Superintendent of the defendant school and most, if not all, of the potential and known

witnesses for this case reside in or near Valentine, Nebraska. Filing No. [17-1](#). Valentine is 130 miles from North Platte, and 317 miles from Lincoln. Plaintiff's counsel is from Lincoln; Defendant's counsel is from North Platte. Although Judge Kopf, the assigned district judge, will not be trying cases in North Platte in October, the current trial setting month, a North Platte trial in October remains available to the parties, either through consent to final disposition by the undersigned magistrate judge or by reassignment to a different district judge. Upon balancing the interests of the litigants, their counsel, and the witnesses, the court finds that the trial should be moved to North Platte.

Accordingly, IT IS ORDERED that the defendant's motions, (filing nos. [16](#) & [23](#)), are granted. This case shall be placed on the North Platte trial docket.

DATED this 14th day of February, 2012.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge

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